IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 91 OF 2007

1. Samadhan Navnath Chandankar
2. Kailas Narayan Chandankar
3. Chandrakant Navnath Chandankar ..Applicants.

V/s

The State of Maharashtra ..Respondents

Mr. J.D. Mane, Advocate for the applicants.

Ms. R.M. Gadhvi, APP for the State.

CORAM : J.H. BHATIA, J.

DATE : 7TH FEBRUARY, 2007.

P.C.

. The applicants seek to be released on bail in Crime No. 7/2006 registered by Tembhurni Police Station for the offence punishable under Section 302,326, 147,148,149,323 of Indian Penal Code.

2. The prosecution case, in brief, is that accused Navnath Narayan Chandankar and complainant Waman Chandankar were holding lands adjacent to each other. They used to reside in their respective fields. Two days before the incident of this case, complainant Waman paid necessary charges to the MSEB for taking electric

connection and that connection was given from the electric poll near the house of Pratap chandankar. After that Navnath Chandankar also started taking electric supply from the connection of Waman illegally. Therefore, Waman disconnected the supply of Navnath. This resulted into some quarrel. As per report lodged by Waman on 14/1/2006, in the same morning he heard shouts from the side of his house and at that time he found that 9 persons including the present applicants were armed with sticks and iron bars and they were assaulting his father Kurumadas and brother Dashrath. Waman intervened and he was assaulted by Chandrakant, Kailash and Samadhan with sticks. These three persons are the applicants before this Court. His father and brother suffered number of injuries, his sister-in-law Surekha also suffered injuries. His father died in that incident due to several injuries, particularly on the head, and his brother also suffered several injuries. After investigation charge-sheet was field against all 9 persons.

3. According to the accused, the quarrel had taken place abruptly and both parties had assaulted each other and several persons from the side of accused were also

injured in the incident. A counter case under section 326 and 323 Indian Penal Code was registered against complainant Waman and others.

4. Out of the nine accused in the present case, six persons are already granted bail by passing different orders from time to time. The learned Counsel for the applicants points out that if the statements of prosecution witnesses recorded by police are carefully perused it will be difficult to distinguish the case of the present applicants from the case against other accused, who are already granted bail and on the principle of parity the present applicants also deserve to be granted bail. It may be noted that earlier Criminal Application NO 2974/2006 was filed by Navnath and his son Samadhan. Samadhan was applicant No.2 in that application. His request was not considered on merits and liberty was given to him to file an application before the Sessions Court later on. His application came to be rejected. While granting bail to Navnath, the learned Single Judge in the order dated 21st August, 2006 had observed that "considering that applicant No.1 Navnath was not named in assaulting deceased as also other family members of the

complainant, he deserves to be enlarged on bail." Learned Counsel for the applicant has pointed out that if the statements of prosecution witnesses are carefully perused it would appear that name of Navnath was also clearly mentioned that he had assaulted some of the prosecution witnesses. General statement was made in the FIR and the statements that all the nine accused persons had assaulted the deceased and others with sticks and iron bars. After careful perusal of the record, I find it difficult to differentiate the case of the present applicants from the case against remaining accused, who are already granted bail. Therefore, on the ground of parity, the applicants deserve to be granted bail. Before concluding it may be noted that as per the F.I.R. Dashrath Chandankar and Waman Chandankar were injured and while their father Kurumdas was killed in the said incident. From the side of accused three persons namely Sudarshan, Narayan and Pratap had suffered several injuries. Each of them had suffered injuries on head and a counter case is pending against other side also.

5. For the aforesaid reasons, the applicant Nos. 1 to 3 namely Samadhan Navnath Chandankar, Kailas Naryan

Chandankar and Chandrakant Navnath Chandankar are granted bail in the sum of Rs. 20,000/- with surety in like amount with conditions that they shall not tamper with the prosecution evidence and shall not misuse the bail. They shall furnish their residential address to the police during the period of trial and they shall also attend the police station Tembhurni, once in a fortnight till conclusion of the trial.

(J.H. BHATIA, J.)